



Sen. Don Harmon

Filed: 4/1/2008

09500SB2755sam001

LRB095 15971 MJR 48206 a

1 AMENDMENT TO SENATE BILL 2755

2 AMENDMENT NO. _____. Amend Senate Bill 2755 on page 1,
3 line 5, by replacing "Section 5-1" with "Sections 5-1 and 8-2";
4 and

5 on page 31, immediately below line 17, by inserting the
6 following:

7 "(235 ILCS 5/8-2) (from Ch. 43, par. 159)

8 Sec. 8-2. It is the duty of each manufacturer with respect
9 to alcoholic liquor produced or imported by such manufacturer,
10 or purchased tax-free by such manufacturer from another
11 manufacturer or importing distributor, and of each importing
12 distributor as to alcoholic liquor purchased by such importing
13 distributor from foreign importers or from anyone from any
14 point in the United States outside of this State or purchased
15 tax-free from another manufacturer or importing distributor,
16 to pay the tax imposed by Section 8-1 to the Department of

1 Revenue on or before the 15th day of the calendar month
2 following the calendar month in which such alcoholic liquor is
3 sold or used by such manufacturer or by such importing
4 distributor other than in an authorized tax-free manner or to
5 pay that tax electronically as provided in this Section.

6 Each manufacturer and each importing distributor shall
7 make payment under one of the following methods: (1) on or
8 before the 15th day of each calendar month, file in person or
9 by United States first-class mail, postage pre-paid, with the
10 Department of Revenue, on forms prescribed and furnished by the
11 Department, a report in writing in such form as may be required
12 by the Department in order to compute, and assure the accuracy
13 of, the tax due on all taxable sales and uses of alcoholic
14 liquor occurring during the preceding month. Payment of the tax
15 in the amount disclosed by the report shall accompany the
16 report or, (2) on or before the 15th day of each calendar
17 month, electronically file with the Department of Revenue, on
18 forms prescribed and furnished by the Department, an electronic
19 report in such form as may be required by the Department in
20 order to compute, and assure the accuracy of, the tax due on
21 all taxable sales and uses of alcoholic liquor occurring during
22 the preceding month. An electronic payment of the tax in the
23 amount disclosed by the report shall accompany the report. A
24 manufacturer or distributor who files an electronic report and
25 electronically pays the tax imposed pursuant to Section 8-1 to
26 the Department of Revenue on or before the 15th day of the

1 calendar month following the calendar month in which such
2 alcoholic liquor is sold or used by that manufacturer or
3 importing distributor other than in an authorized tax-free
4 manner shall pay to the Department the amount of the tax
5 imposed pursuant to Section 8-1, less a discount which is
6 allowed to reimburse the manufacturer or importing distributor
7 for the expenses incurred in keeping and maintaining records,
8 preparing and filing the electronic returns, remitting the tax,
9 and supplying data to the Department upon request.

10 The discount shall be in an amount as follows:

11 (1) For original returns due on or after January 1,
12 2003 through September 30, 2003, the discount shall be
13 1.75% or \$1,250 per return, whichever is less;

14 (2) For original returns due on or after October 1,
15 2003 through September 30, 2004, the discount shall be 2%
16 or \$3,000 per return, whichever is less; and

17 (3) For original returns due on or after October 1,
18 2004, the discount shall be 2% or \$2,000 per return,
19 whichever is less.

20 The Department may, if it deems it necessary in order to
21 insure the payment of the tax imposed by this Article, require
22 returns to be made more frequently than and covering periods of
23 less than a month. Such return shall contain such further
24 information as the Department may reasonably require.

25 It shall be presumed that all alcoholic liquors acquired or
26 made by any importing distributor or manufacturer have been

1 sold or used by him in this State and are the basis for the tax
2 imposed by this Article unless proven, to the satisfaction of
3 the Department, that such alcoholic liquors are (1) still in
4 the possession of such importing distributor or manufacturer,
5 or (2) prior to the termination of possession have been lost by
6 theft or through unintentional destruction, or (3) that such
7 alcoholic liquors are otherwise exempt from taxation under this
8 Act.

9 The Department may require any foreign importer to file
10 monthly information returns, by the 15th day of the month
11 following the month which any such return covers, if the
12 Department determines this to be necessary to the proper
13 performance of the Department's functions and duties under this
14 Act. Such return shall contain such information as the
15 Department may reasonably require.

16 Every manufacturer and importing distributor shall also
17 file, with the Department, a bond in an amount not less than
18 \$1,000 and not to exceed \$100,000 on a form to be approved by,
19 and with a surety or sureties satisfactory to, the Department.
20 Such bond shall be conditioned upon the manufacturer or
21 importing distributor paying to the Department all monies
22 becoming due from such manufacturer or importing distributor
23 under this Article. The Department shall fix the penalty of
24 such bond in each case, taking into consideration the amount of
25 alcoholic liquor expected to be sold and used by such
26 manufacturer or importing distributor, and the penalty fixed by

1 the Department shall be sufficient, in the Department's
2 opinion, to protect the State of Illinois against failure to
3 pay any amount due under this Article, but the amount of the
4 penalty fixed by the Department shall not exceed twice the
5 amount of tax liability of a monthly return, nor shall the
6 amount of such penalty be less than \$1,000. The Department
7 shall notify the Commission of the Department's approval or
8 disapproval of any such manufacturer's or importing
9 distributor's bond, or of the termination or cancellation of
10 any such bond, or of the Department's direction to a
11 manufacturer or importing distributor that he must file
12 additional bond in order to comply with this Section. The
13 Commission shall not issue a license to any applicant for a
14 manufacturer's or importing distributor's license unless the
15 Commission has received a notification from the Department
16 showing that such applicant has filed a satisfactory bond with
17 the Department hereunder and that such bond has been approved
18 by the Department. Failure by any licensed manufacturer or
19 importing distributor to keep a satisfactory bond in effect
20 with the Department or to furnish additional bond to the
21 Department, when required hereunder by the Department to do so,
22 shall be grounds for the revocation or suspension of such
23 manufacturer's or importing distributor's license by the
24 Commission. If a manufacturer or importing distributor fails to
25 pay any amount due under this Article, his bond with the
26 Department shall be deemed forfeited, and the Department may

1 institute a suit in its own name on such bond.

2 After notice and opportunity for a hearing the State
3 Commission may revoke or suspend the license of any
4 manufacturer or importing distributor who fails to comply with
5 the provisions of this Section. Notice of such hearing and the
6 time and place thereof shall be in writing and shall contain a
7 statement of the charges against the licensee. Such notice may
8 be given by United States registered or certified mail with
9 return receipt requested, addressed to the person concerned at
10 his last known address and shall be given not less than 7 days
11 prior to the date fixed for the hearing. An order revoking or
12 suspending a license under the provisions of this Section may
13 be reviewed in the manner provided in Section 7-10 of this Act.
14 No new license shall be granted to a person whose license has
15 been revoked for a violation of this Section or, in case of
16 suspension, shall such suspension be terminated until he has
17 paid to the Department all taxes and penalties which he owes
18 the State under the provisions of this Act.

19 Every manufacturer or importing distributor who has, as
20 verified by the Department, continuously complied with the
21 conditions of the bond under this Act for a period of 2 years
22 shall be considered to be a prior continuous compliance
23 taxpayer. In determining the consecutive period of time for
24 qualification as a prior continuous compliance taxpayer, any
25 consecutive period of time of qualifying compliance
26 immediately prior to the effective date of this amendatory Act

1 of 1987 shall be credited to any manufacturer or importing
2 distributor.

3 A manufacturer or importing distributor that is a prior
4 continuous compliance taxpayer under this Section and becomes a
5 successor as the result of an acquisition, merger, or
6 consolidation of a manufacturer or importing distributor shall
7 be deemed to be a prior continuous compliance taxpayer with
8 respect to the acquired, merged, or consolidated entity.

9 Every prior continuous compliance taxpayer shall be exempt
10 from the bond requirements of this Act until the Department has
11 determined the taxpayer to be delinquent in the filing of any
12 return or deficient in the payment of any tax under this Act.
13 Any taxpayer who fails to pay an admitted or established
14 liability under this Act may also be required to post bond or
15 other acceptable security with the Department guaranteeing the
16 payment of such admitted or established liability.

17 The Department shall discharge any surety and shall release
18 and return any bond or security deposit assigned, pledged or
19 otherwise provided to it by a taxpayer under this Section
20 within 30 days after: (1) such taxpayer becomes a prior
21 continuous compliance taxpayer; or (2) such taxpayer has ceased
22 to collect receipts on which he is required to remit tax to the
23 Department, has filed a final tax return, and has paid to the
24 Department an amount sufficient to discharge his remaining tax
25 liability as determined by the Department under this Act.

26 (Source: P.A. 92-393, eff. 1-1-03; 93-22, eff. 6-20-03.)".